

technically feasible within the meaning of section 251 (c) (2) if an incumbent LEC currently provides, or has provided in the past, interconnection to any other carrier at the point, and that all incumbent LECs that employ similar network technology should be required to make interconnection at such points available to requesting carriers" (¶ 57). However, interconnection points and unbundled elements should not be driven solely by what is currently offered to other carriers. Local competition is a new development, so there is no "off-the-shelf" standard for full technical interconnection. Rather the FCC must also look to what is available to any other interconnecting party, including public safety officials, STS providers, large end user customers, etc.

- The Interconnection NPRM asks what "criteria may be appropriate in determining whether interconnection is 'equal in quality'" (¶ 63). Interconnection should be subject to at least the same technical standards incumbent LECs afford each other now, as well as future interconnection standards, including all industry norms, and should permit interconnection regardless of the transmission medium, i.e., digital loops, ISDN, SONET, so that networks and applications can evolve without ambiguity as to the degree of interconnectivity;¹⁴
- Interconnection should be reciprocal and enforceable concerning ordering, testing, provisioning intervals, etc. CLECs should not be subject to unnecessary testing, and should have the right to include compliance mechanisms in interconnections agreements to insure ILECs carry out their

¹⁴ See BellSouth Europe's submission to the European Commission's Green Paper filed March 15, 1995, at 6: "Competitors are disadvantaged if they cannot order and obtain leased lines, circuit rearrangements, and enhanced services on reliable commercial schedules that are equivalent to the service a[n incumbent] provides to its own departments or subsidiaries. Experience in the liberalized markets (U.S. , U.K.) suggest that regulators need to establish a requirement for equal provisioning and to monitor [the incumbent's] performance to ensure equal access." See also BellSouth New Zealand's "Regulation of Access to Vertically-Integrated Natural Monopolies, A Discussion Paper," dated September 1995, at 9-10: Terms of access are vital to the emergence of competition because "[t]he terms and conditions for interconnection, and the price of those complementary network services, determine which firms capture what rents, and how;" and US West International's response to OFTEL's consultative document at 8: "[I]t is ... in the dominant operator's self-interest to make interconnection as difficult and expensive as possible."

interconnection obligations in a timely and quality-oriented manner;

- Interconnection should allow for the exchange of all types of traffic including, but not limited to, local, toll, operator-assisted, paging, cellular, access, directory assistance and emergency services;
- The exchange of traffic should be accomplished in the most technically efficient manner, subject to mutual responsibility for network redundancy and reliability concerns, without any restriction upon the nature of the interconnecting carrier's traffic (for example, demands by ILECs that one way trunks be employed when two way trunks are more efficient);
- Procedurally, ALTS endorses the use of "expectations" or "preferred outcomes," as used by New York and California, for example, to provide a framework under which national minimal interconnection can take place, while states which wish to advance beyond such levels would be free to do so (¶ 52); and
- Terms and conditions for receiving switching information must include competing carriers' network information in the routing guide and notification of any routing and rating modifications in the same manner as the incumbents provide this information to themselves today. Failure to do so should include forfeiture and penalties on the party which was responsible for the update (¶ 61).

Pricing made available to new entrants for such interconnection should be on nondiscriminatory rates, terms and conditions such as that provided to the ILEC itself or that the ILECs afford each other. CLECs should not be required to purchase unnecessary equipment or otherwise assume cost obligations other than those assumed by the ILEC for comparable network functionalities. This would include meeting for traffic exchange at common meet-points with each carrier responsible for the construction costs up to that meet-point, and then equally sharing the cost of the meet point. Requesting parties should be permitted to negotiate their own rates terms and conditions

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where they choose, however such rates, terms and conditions should also be available to all other interconnecting carriers at their option.

Collocation -- ¶¶ 66-73

Physical collocation is only one of various interconnection functionalities which facilitate competition, and should be available at the option of a new entrant. Because the statutory requirement is not limited to any particular kind of equipment or end user service, the proposed regulations in proposed Rule 404 of Attachment A emphasize that it encompasses any existing or future form of equipment employed in central offices. The proposed rule reflects the following principles:

- ALTS endorses the Interconnection NPRM's tentative conclusion that "we should adopt national standards where appropriate to implement the collocation requirements of the 1996 Act" (¶ 67).
- ALTS believes that the states should be allowed some procedural variation in implementing the proposed collocation rules in proposed Rule 404 of Attachment A in order to accommodate the pro-competitive approaches of such states as New York (which employs a "comparably efficient interconnection ('CEI') standard) and California (which employs a "preferred outcomes" approach). However, the Commission needs to insure that procedural variations cannot be used by a state to undercut the substantive rights conferred on requesting carriers in proposed Rule 404.
- ALTS agrees with the Interconnection NPRM that "premises" as used in Section 251(c)(6) includes any ILEC facility capable of accommodating equipment (¶ 71). Furthermore, ALTS believes that any type of equipment should be allowed for collocation, absent some demonstrable harm to the incumbent (¶ 72).
- ALTS agrees the Commission should "establish guidelines for states to apply when determining whether physical collocation is not practical for 'technical reasons or because of space limitations'" (¶ 72), and endorses MFS's proposed solution in

its ex parte of March 21, 1996, in CC Docket No. 94-97, Phase II, to central office capacity limitations as an example of how best to deal with such issues.

Physical collocation should be made available through the use of existing ILEC facilities, solely excepting where no such facilities exist, in which case the ILEC should be required to provide reasonable substitute arrangements (including, but not limited to, virtual collocation under \$1 leaseback arrangements, or mid-span meet arrangements) at the cost it affords such facilities to itself or to its most favored customers. Charges imposed on the collocating carrier by the carrier in whose facility the collocation occurs shall be limited to the incremental cost of accommodating the equipment and space of the collocating carrier.¹⁵

Additional charges for physical collocation may include such items as the rent of the floor space occupied by the collocating carrier's equipment. However, such rent should be limited to the average local rent for similar space in similar conditions in similar geographic locations, or to amounts charged to most favored customers for housing customer equipment. Any and all

¹⁵ The cost standard of the statute is not satisfied by offering rental of real estate plus two channel terminations at tariffed rates, as SWB has recently demanded. First, tariff rates currently reflect a fully allocated cost standard which is inconsistent with the "interconnection at cost" standard of Section 251. Second, channel termination rates reflect the fact that most customers are far from a central office, and thus impose much greater costs than are involved in the provisioning of connections to collocated equipment.

other costs should be clearly delineated and calculated at the best available rates, terms, and conditions available for similar functionalities by the most favored customers.¹⁶

The proposed physical collocation rules in Attachment A, make it emphatically clear that CLECs which choose to switch from existing virtual arrangements to physical collocation should not have to pay any non-recurring (proposed Rule 404(g); Attachment A). Most virtual collocation arrangements are currently provided pursuant to "\$1 leaseback" options. These can be converted to physical arrangements simply by permitting interconnectors to "buy-back" at \$1. Special security arrangements, such as cages, alarms, etc., should only be installed at the request of the interconnector, and any charges for such construction should be limited to the costs that would have been borne by the interconnector, had it performed the construction itself.¹⁷

¹⁶ In the event that most favored customers do not pay an identified separate rental charge for collocated equipment, the rental charges to CLECs should be zero until such time as the ILEC assesses specific rental charges for most favored customers.

¹⁷ Because Section 251(c)(6) refers to both physical and virtual collocation, the Commission should also complete its ongoing inquiry into virtual collocation tariffs within the statutory time schedule. In the Matter of Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport ("ODI"), CC Docket No. 94-97, Phase II. In particular, the Commission should now: (1) order that all ILECs provide the \$1 leaseback option (since the statute has removed any question as to the Commission's power to impose physical collocation, in the event a court were to find that the \$1 leaseback constituted physical collocation), (2) find that all

(continued...)

Given the need to deal with all these issues, ALTS concludes the Commission was correct in proposing that it "adopt comprehensive national standards for collocation by readopting our prior standards governing physical and virtual collocation that we established in the Expanded Interconnection proceeding" (¶ 72). See pp. 46-53, infra.

Unbundled Network Elements -- ¶¶ 74-116

Unbundling involves the identification and disaggregation of the bottleneck components of the incumbent's local exchange network into a set of piece parts that can be individually provided and priced based on cost.¹⁸ Unbundling requires that the requesting carriers only need to purchase from the incumbent those elements that they need for provision of services.¹⁹

(...continued)
existing rates are not supported because the ILECs refused to comply with the ODI's requirement that they calculate the amounts recovered from most favored customers for similar amounts; and (3) prohibit current onerous provisioning practices. See infra at pp. 46-53.

¹⁸ See NARUC Work Group at 17-18: "... all telephone service providers should be required to unbundle services to the extent requested by other carriers if it is economically reasonable and technically feasible without causing damage to network integrity."

¹⁹ See Proposed Introduction of a Trial of Ameritech's Customers First Plan in Illinois, 94-0096, order released April 7, 1995, at 47-48: "There was very little dispute in this proceeding regarding the importance of unbundling the incumbent LECs' networks to promote competition in the local exchange ... The full pro-competitive benefits of reducing the capital cost
(continued...)

ALTS agrees with the Interconnection NPRM's tentative conclusion that "section 251 obligates the Commission to identify network elements that incumbent LECs should unbundle and make available to requesting carriers under subsection (c)(3)," and that "[r]ather than itemize an exhaustive list of network elements, however, some of which competing carriers may not desire, we further tentatively conclude that the Commission should identify a minimum set of network elements that incumbent LECs must unbundle for any requesting telecommunications carrier, and to the extent necessary establish additional or different unbundling requirements in the future as services, technology, and the needs of competing carriers evolve" (¶ 77).²⁰

Concerning the Interconnection NPRM's inquiry concerning "the relationship between section 251(c)(3), concerning

(...continued)
barriers to entry can be achieved only if the incumbent LECs are required to sell to their competitors only those network components and functionalities that new LECs need ... Full unbundling facilitates physical interconnection and the development of a network-of-networks by creating new points of interconnection between incumbent LECs and new LECs ... [W]e generally endorse Staff's approach of establishing a policy which favors requiring incumbent LECs to unbundle their networks and to offer interconnection at all 'logical connection points', including the interface between feeder and distribution plant. We believe that the establishment of a policy favoring multiple interconnection options is one of the conditions that will ensure and enhance the viability of local exchange competition, and thus set that general policy guideline in this order."

²⁰ ALTS also agrees with the Interconnection NPRM's tentative conclusion that "states may require additional unbundling of LEC networks" (¶ 78).

unbundling, and section 251(c)(4), which addresses resale of incumbent LEC services" (¶ 85), see proposed Rules 403(e) and 405(b) in Attachment A, which would insure that facilities-based competitors are not unfairly affected by the availability of any below-cost wholesale rates.²¹

Local Loop Unbundling -- ¶¶ 94-97

ALTS believes the unbundled loop (and all other unbundled elements necessary to make such loops functional) is the paradigmatic example of an "essential facility" that must be made promptly available to the CLECs on reasonable terms. Local loop unbundling has already been deemed both essential and technically feasible in many jurisdictions.²² Because it will be many years until competitive networks fully, if ever, duplicate the current footprint of the loop plant, a "minimum preferred outcome" for the unbundled network elements rules requires that ILEC access to

²¹ See also In the Matter of the Application of City Signal, Inc., for an Order Establishing and Approving Interconnection Arrangements with Ameritech Michigan, Case No. U-10647, Opinion and Order dated February 23, 1995. The PSC expressly approved total unseparated TSLRIC costs for the pricing of unbundled loops, and found that such a standard would ensure that all customers which use identical network elements were assigned the same level of costs (at 55). Accordingly, the PSC concluded that any assessment of EUCL charges to unbundled loops should be offset against the unbundled rates to preclude double recovery of costs (id. at 57).

²² The Interconnection NPRM's tentative conclusion that "unbundling of local loops is technically feasible" (¶ 94) has been supported in several states. ILECs currently allow both competitive carriers and end users to access unbundled loops in Michigan, Illinois, New York, Connecticut and Maryland.

local loops be provided via unbundled loop links at a point of interconnection through cross connect at the ILEC main distribution frame and any customer premise facility;

- Loops must be defined to embrace, as a minimum preferred outcome, any transmission medium provided between the end office and the subscriber's premises. These include, but not be limited to: 2 wire, 4 wire, analog, digital, DS1, DS3, ISDN, each provided without any degradation in the technical capabilities of the line, at the discretion of the new entrant. Testing and conditioning also needs to be unbundled from the loop. Unbundled loops must also include the ability to cross connect at the central office and, at the customer end, access to any and all network interface devices and any riser cable, conduit or even roof rights (wireless) to extent controlled by the ILEC, and any other physical facility without which the unbundled would not be useable by the CLEC.

Terms and conditions for provisioning should be set at equal or better to that provided to the ILEC's own customer.²³ As discussed supra, Brooks looks bad to its customers in Michigan even if it is solely Ameritech's fault that a cutover commitment is missed. Customer confidence is a very fragile commodity for new entrants, and the ILECs have innumerable opportunities to "game" the way customers perceive the new entrant through their control over the timing and quality of the unbundled network elements they provide. By not installing loops in same time frame as for itself, the ILEC can make CLEC customers think CLEC service is inferior. The Commission should state that a preferred outcome constitutes the same treatment for new entrants

²³ ALTS submits these conditions should apply to all unbundled network elements, not just loops.

as for the ILEC itself. Penalties for failing to implement these intervals and quality standards of service should be imposed, including forfeiture of non-recurring charges, monetary damages, and discounts on loop rates.

ALTS believes that the unbundling of network elements below the first serving wire center, most notably the loop and the ports, should proceed immediately. Subloop unbundling should be available upon bona fide request, and as part of negotiations, and thus ALTS agrees with the Interconnection NPRM's tentative conclusion that "we should require further unbundling of the local loop" (¶ 97).²⁴ Because the burden should rest on the ILEC to prove why it cannot unbundle subloop elements if requested, ALTS also agrees with Interconnection NPRM's tentative conclusion that "LECs have the burden of proving that it is technically infeasible to provide access to a particular network element" (¶ 87). Proposed Rule 403(d) in Attachment A requires that documented justification for a refusal to provide subloop elements must be supplied within 15 days of receipt of the request.

²⁴ Basic subloop components include: a) the network interface device: i.e., the demarcation point between the end user and the unbundled loop; b) loop distribution, i.e., the portion of telephone cable from the network interface to the terminal block or concentrator; c) loop feeder: the telephone cable facility between the terminal block and the main distribution frame; and, d) concentration points where electronics in the network are deployed to improve quality or aggregate quantities of loops.

Local Switching Capability Unbundling -- ¶¶ 98-103

Switching facilities include the functions which route traffic or calls, perform route selection, perform testing and recording, and generate the appropriate signaling required for network maintenance and call processing.²⁵ Switching should be considered one of the fundamental co-carrier interfaces. ALTS agrees with the Interconnection NPRM's tentative conclusion that "incumbent LECs should provide unbundled local switching capability as a network element" (¶ 98). Switching must be made available in such a way that all the necessary information to complete a call, be it between competing local exchange carriers' end offices, from or to an end office and tandem or, from or to a local network and an interexchange network, must be passed to the interconnecting carriers.²⁶ For example, the practice of stripping off certain signaling information at tandem and end offices needs to cease immediately. This practice clearly undermines the ability of new entrants to receive and aggregate traffic for various interexchange carriers, and it is technically feasible to correct this practice through software fixes, since

²⁵ Other switching functionalities may be required by carriers not investing in their own switches in a given location. Such functionalities may include interconnection to the port, essentially the "doorway" to the switch, the capability for call paths to be set up and rated, and the availability of advanced switching features, such as those used in SS-7 based services and AIN.

²⁶ ILECs today share similar switching capabilities with other ILECs and, to a more limited extent, interexchange carriers.

Ameritech has cured the problem.

Local Transport and Special Access Unbundling -- ¶¶ 104-106

Local transport should be viewed as having three components:

(1) end office to end office transport or intermachine trunks;
(2) end office to interexchange carriers' point of presence,
dedicated transport; and, (3) end office to tandem, common
transport.²⁷

Furthermore, standards for transport are clearly defined, so there is no impediment to requiring that levels of technical performance should be equivalent among competing carriers, i.e., there should be no meaningful distinctions among the technical performance of different DSIs. The Commission's minimum preferred outcomes must indicate that carriers have the ability to order such unbundled facilities with or without electronics (i.e., as dark fiber).

Just as with loops, the terms and conditions for unbundled local transport must indicate that a requesting telecommunications carrier should receive the same or better ordering, provisioning, and installation standards, as the incumbent provides itself. Such standards should be clearly stated in the agreement, and penalties, such as forfeiture of non-recurring charges and monetary damages as proposed in

²⁷ These elements are all available today to other carriers as well as large end users.

Attachment A, Subpart G, should apply if deadlines are not met.

Databases and Signaling System Unbundling -- ¶¶ 107-116

There are two types of databases: (1) those that support call processing, (i.e., LIDB and 800), and (2) those that support non-call processing (e.g., directory assistance and billing information). Signaling in this context refers to signaling systems that exist independently of the call transmission, but, like the information requirement discussed in the switching section, CLECs need access to all the necessary information needed to properly route and complete the call. Such signaling systems query databases for information relative to the call processing, e.g., LIDB queries determine if calling card use is valid and to whom the call should be billed, 800 queries determine to which carrier a given 800 call should be routed. All databases and signaling systems must be unbundled and made available to new entrants as they are unbundled and made available within the ILECs today. Several states have already mandated that access to databases and signaling information be made available to new entrants.

²⁸ See Washington Utilities and Transportation Comm'n v. US WEST, Fourth Supplemental Order, Docket No. UT-941464, released October 31, 1995, at 57: "The Commission agrees that there are alternatives to published directories and directory assistance. However, there is a strong public and consumer interest in having a complete listing of subscribers for each local calling area available to subscribers. Commission rules enforce this interest by requiring that subscribers be provided the directories necessary to access all numbers within a local calling area . . . [W]e do believe a unified directory database is essential . . . (continued...)"

Ancillary Services -- ¶¶ 116

There are significant ancillary services which competitors will need. (1) Special operator services - CLECs must have nondiscriminatory access to busy line verification and call interrupt. These functionalities are currently only available from the ILEC. (2) White and yellow pages directory listings - Competitors must have complete listing of all their customers in the white and yellow pages of the ILECS. (3) Public Health and Safety Facilities - E911 and similar functionalities.²⁹ Because of the mutual and necessary benefit of these services, no charges should be assessed.

(...continued)

USWC and GTE must include all listing of telephone subscribers submitted to them by companies serving the same area served by the directory or database."

²⁹ See Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service, R.95-04-043, order mailed December 22, 1995, at 45-46: "Access to E-911 service is essential for each Californian. We will therefore require that every CLC be able to provide each of its customers with access to 911 services. To accomplish this mandate, Pacific and GTEC are ordered to take the actions necessary to provide the CLCs with 911-interconnection services by the commencement of local exchange competition on January 1, 1996."

Pricing of Interconnection, Collocation,
and Unbundled Network Elements -- ¶¶ 117-171

Commission Authority to Set Pricing Principles -- ¶¶ 117-120

The Interconnection NPRM is clearly correct in its tentative conclusion that the "statutory language establishes our authority under section 251(d) to adopt pricing rules to ensure that rates for interconnection, unbundled network elements, and collocation are just, reasonable, and nondiscriminatory" (¶ 117).³⁰ The blunt fact is that the wrong pricing standards would totally undercut implementation of the local competition portions of the 1996 Act.

ALTS quite agrees with the Interconnection NPRM's observation that uniform national pricing rules would simplify record keeping, and increase the predictability of rates (¶ 119). However, the real policy driver is the one identified in ¶ 120: "We tentatively conclude that the pricing principles we establish pursuant to section 251(d) would not recognize any jurisdictional distinctions, but would be based on some measure of unseparated costs" (id.).

This is an extremely important point. Congress directed the Commission to implement local competition through interconnection, unbundling, and collocation rates which reflect economic costs. This requires the Commission to determine what

³⁰ ALTS also agrees with the Interconnection NPRM's tentative conclusion that "we have statutory authority to define what are 'wholesale rates' for purposes of resale, and what is meant by 'reciprocal compensation arrangements' for transport and termination of telecommunications" (id.).

the economic costs of these input would be in a competitive environment, and the economic principles which drive that determination do not change depending on the legal jurisdiction involved. There can always be debate about details, but the fundamental goal -- replication of economic costs under effective competition -- cannot be debated, and thus could not differ between the federal and state levels without sabotaging implementation of the 1996 Act. See also the attached statement of William Page Montgomery at pp. 2-3.

Statutory Language -- ¶¶ 121-122

The statement of W.P. Montgomery attached to these comments responds to the Interconnection NPRM's inquiries in ¶¶ 121-122 in general, and to the issue of "reasonable profit" in particular (at p. 9):

"Incremental cost studies based upon proxy models incorporate the reasonable profit that a firm under effective competition could expect to receive from using the resources subject to the studies. The profit includes a forward looking cost of capital consisting of the firm's market rates for obtaining money in capital markets, capital recovery charges and the income tax effects associated with the return on and recovery of capital."

ALTS agrees with the Interconnection NPRM that "any pricing principles we adopt should be the same for interconnection and unbundled network elements" and that "the same pricing rules that apply to interconnection and unbundled network elements should

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apply to collocation" (¶ 122).³¹

Rate Levels -- ¶¶ 123-125

ALTS agrees entirely with the Interconnection NPRM's tentative conclusion that the statutory language "precludes states from setting rates by use of traditional cost-of-service regulation" (¶ 123). Furthermore, the attached statement of W.P. Montgomery explains why the use of so-called "proxies" as raised in the Interconnection NPRM would be completely inconsistent with the 1996 Act's mandate of economic costing, particularly as it might permit ILECs to attempt to recover "legacy costs" (pp. 25-26).

LRIC-Based Prices; Proxies; Rate Structures and Discrimination -- ¶¶ 126-156

The attached statement of W.P. Montgomery discusses the issues raised in ¶¶ 126 through 156 of the Interconnection NPRM. Mr. Montgomery addresses proper principles for TSLRIC costing (pp. 10-19); the manifest defects of proxy-based methods (pp. 3, 6-7); the need for rate structures which reflect cost causation as well as market needs (p. 4); and discrimination (pp. 3-4).

The basic thrust of Mr. Montgomery's statement is simple. First, the Commission cannot afford to take halfway measures by caving into fears about "administrative difficulty," and adopting "proxy measures" instead of requiring prices grounded on sound

³¹ See also W.P. Montgomery statement at pp. 6-8; 24-25.

TSLRIC principles. There is no administrative crisis involved in requiring the application of certain basic TSLRIC principles which can be applied by the states in specific proceedings:

- Assumptions about the "model network being used must be applied consistently across all network functions with respect to an incumbent LEC's cost elements for interconnection, collocation and unbundling ('ICU'); it is not correct to assume rebuild conditions in one part of the network when other parts like switching nodes are analyzed only "in place;"
- Spare network capacity should be completely segmented among the four different conditions that create spare capacity, and attributed to ICU elements only on a cost causative basis;
- Network engineering assumptions used to develop direct TSLRIC costs should conform to the types of services for which local market entrants will compete using the ICU elements.
- TSLRIC cost studies must be able to identify all costs that will be avoided when ICU elements are provided to competing carriers.³²
- "Joint" costs should be segmented from "common" costs, and joint costs should be attributed to ICU elements only when the incumbent LEC can demonstrate that the joint cost condition arises from the technology used to provide the elements. Costs simply labeled "residual" or by identified other non-specific terminology should not be used in these studies.
- Inputs and outputs from a TSLRIC study should be accessible for purposes of replicating the study methods, performing

³² The economic cost tests identified for interconnection and unbundled network elements in the Telecommunications Act [sections 252(d) (1) and (d) (2) (A) and (B)] inherently require that incumbent LECs identify such avoided costs in the "bottom-up" cost studies for these elements, even through these avoided costs may differ from the "top down" cost avoidances referenced in the Act with respect to resale rates [section 252(d) (2) (C)].

sensitivity studies, and comparisons to other public data.

These fundamental principles for TSLRIC costing provide a prudent and effective compromise between the danger of "proxies" -- which fail to capture economic costs -- and the practical administrative problem that would arise if the Commission were to attempt to take on all the duties of the states in these matters, and try to calculate TSLRIC costs for each jurisdiction.

Beyond these basic principles, there are certain specific pricing rules the Commission needs to overlay on this process. The first involves the situation where, because of below cost pricing of resold services, the Commission will need to insure that facilities-based competitors are not disadvantaged vis-a-vis resellers by imposing price ceilings on the equivalent unbundled elements.³³ Second, both the Commission and the states should also recognize there will likely be situations, much like non-premium Feature Groups A and B, and certain current forms of interim number portability which degrade network functionality, where the service provider should not be allowed to recover any of its costs.

3. Resale Obligations of Incumbent LECs -- ¶¶ 172-188

ALTS believes that the resale provided under this section should be subject to the Commission's long-standing

³³ See the discussion on p. 38, infra.

requirement that there be no prohibitions or restrictions on the resale of the of dominant carriers, such as the ILECs. See, e.g., Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities, 60 FCC 2d 261, 321 (1976), amended on recon., 62 FCC 2d 588 (1977), aff'd sub nom. AT&T v. FCC, 572 F. 2d 17 (2d Cir.), cert. denied, 99 S. Ct. 213 (1978), and recently reaffirmed in In the Matter of US West Tariff F.C.C. Nos. 3 and 5, Trans. No. 629, released September 28, 1995, at ¶ 11: "The Commission found that numerous public benefits would flow from unlimited resale and sharing activity."³⁴

In determining the pricing standard for wholesale services versus unbundled elements, the Commission needs to take account of any implicit or explicit subsidies currently contained in the retail rates for which the wholesale price is being calculated. Under the pricing scheme laid out in the Act, the wholesaler would become a recipient of the benefit of that subsidy, through the subsidized, below cost based retail rate as a ceiling, while the facilities-based carrier would not have access to the subsidy unless, and until, universal service reform removes all subsidies and makes them available to all telecommunications carriers serving eligible end users. As stated previously, ALTS specifically endorses the use of TSLRIC for the pricing of unbundled elements. However, where below-cost pricing for

³⁴ State commissions can prohibit resale of services available at retail only to a category of subscribers.

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competitive services exists, the Commission must order that when such subsidies are offered to one set of competitors (such as resellers), they must also be offered to all other competitors, including facilities-based competitors. Otherwise, facilities-based competitors would be discriminated against by not having access to the reduction in rates created by the ILEC's resold subsidy. The ILEC should be required to pass along any subsidy reflected in its rates equally to resellers and facilities-based carriers through a discount off of the cost-based rates for unbundled elements such that each element receives a share of the subsidy in proportion to its individual cost, such that the total price of the equivalent unbundled network elements is no more than the wholesale price of the end to end service.

C. Obligations Imposed on "Local Exchange Carriers" by Section 251(b) -- ¶¶ 195-244

2. Number Portability -- ¶¶ 198-201

Section 251(b)(2) imposes on all local exchange carriers the duty to provide "to the extent technically feasible" number portability in accordance with requirements prescribed by the Commission. Section 251(e)(2) requires the associated costs "be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." Section 271(c)(2)(B)(xi) imposes additional requirements on RBOCs seeking permission to enter in-region long distance service by ordering them to provide interim number portability "through remote call forwarding, direct inward dialing trunks, or other comparable

arrangements" until Section 251(b)(2) regulations are issued.

The two key concepts in number portability are "technically feasible" (used in Section 251(b)(2)), and "competitively neutral" cost recovery (used in Section 251(e)(2)). The "interim number portability" provision of Section 271(c)(2)(B)(xi) is essentially moot in light of the industry's technical consensus in Illinois and Georgia, and the Georgia Commission's recent implementation order.³⁵ Because full service provider portability is clearly "technically feasible," there is no reason for any FCC delay in issuing full number portability regulations within the same time frame as the Commission's Section 251 regulations.³⁶

The principal focus of proposed Rule 301 of Attachment A is: (1) to list all the forms of number portability which have passed technical trials or been accepted through industry consensus; (2) to order the states to promptly implement a form of full number portability conforming to certain basic criteria;³⁷ and, (3) to insure competitively neutral cost

³⁵ Each situation involves the LRN form of the "n-1" data dip architecture.

³⁶ In the course of finding that full number portability is feasible and ordering its implementation by the states, the Commission should also require that it may not degrade the quality of calls (such as by not supporting SS-7 based features), or needlessly requiring ILEC dips (as in Pacific Bell's "Return to pivot" proposal).

³⁷ Such criteria should include: true number portability;
(continued...)

recovery by:

- requiring that internal costs be borne by each participant, and external costs be bid out to third parties; and
- prohibiting any recovery of internal or external costs through a separate bill item (which would unfairly stigmatize CLECs as the cause of the charge). The Commission has already encountered a charge designed to help implement competition which was recovered in a competitively neutral basis -- the Equal Access and Network Reconfiguration charge. Although AT&T had no direct benefit from competition, it paid the proportionate costs of converting local networks to equal access. The same principle should apply to recovery of third-party number portability costs.

Of course, the full number portability regulations also need to address appropriate forms of interim portability until the final implementation of full portability.³⁸ It is important that

(...continued)

compatibility with data base solutions; either IN or AIN triggering; preservation of full feature interactions, including all SS-7 based functionality; efficient allocation of access revenues; ten digit routing; and an N-1 call processing scenario. See proposed Rule 301(b), Attachment A.

³⁸ No state has adequately addressed the issue of interim number portability, which ALTS considers a stopgap measure at best, and degrades the quality of its member companies' service offerings. Given the deficiencies involved in the interim offering, it should be provided at no cost to the new entrant. If any charges are to be assessed, the Commission should view the Rochester plan as closes to what the '96 Act intends. In Joint Stipulation and Agreement, NYPSC 93-C-0103, the costs, after the initial set up charges are absorbed by the incumbent, are recovered in a competitively neutral manner across all working numbers (at 47-48): "R-Net will forward calls to the other network carrier using either call forwarding or Direct Inward Dialing or other suitable arrangements at R-Net's option ... To compensate R-Net for its additional switching costs, R-Net will establish a monthly surcharge on all working numbers provided by R-Net ... R-Net will absorb, without additional end user charges, (continued...)

the Commission's regulations preserve existing forms of interim portability that have been ordered by the states, while also ordering interim portability which preserves as much vertical service functionality as possible. Because of the technical, economic, and administrative degradation suffered by competitors as a result of currently available interim number portability option, new entrants should not have to pay any amounts for these services. See proposed Rule 301(d)(4), Attachment A.

Thus, the Commission's basic task is to promptly adopt regulations insuring that full number portability is implemented in the states as quickly as possible, along with robust interim portability rules, and requirements insuring that cost recovery is "on a competitively neutral basis."

5. Reciprocal Compensation for Transport and Termination of Traffic -- ¶¶ 226-244

Section 251(b)(5) requires that all LECs establish reciprocal compensation agreements for the origination and termination of telecommunications. Agreements must provide for recovery of each carrier's costs based on a reasonable approximation of the additional costs of terminating calls, or for arrangements that provide for the mutual recovery of costs through the offsetting of reciprocal obligations, including "bill

(...continued)
the surcharge applicable to the numbers on which it provides service directly to end users"

and keep," which are expressly authorized by Section 252(d)(2).³⁹

There are three compelling reasons why proposed Rule 303 in Attachment A recognizes the CLECs' right, at their option, to "bill and keep" arrangements. First, because ILECs currently exchange traffic among themselves under "bill and keep"

³⁹ See In the Matter of the Application of Electric Lightwave, Inc. For a Certificate of Authority to Provide Telecommunications Services in Oregon, Order 96-021, entered January 12, 1995, at 52: "Based on the evidence and arguments presented, the Commission finds that compensation for the exchange of local traffic between the applicants and the LECs in the competitive zones should be based on bill and keep arrangements for an interim period of not more than 24 months. We are persuaded that bill and keep has fewer shortcomings than other compensation proposals made in this case and will function as a reasonable compensation mechanism during the initial stages of competitive entry into the local exchange market ... There are several other advantages to implementing bill and keep as an interim compensation mechanism. Because bill and keep is the dominant practice for terminating EAS traffic between adjacent LEC exchanges in Oregon and throughout the nation, it is the least difficult compensation arrangement to implement from an administrative standpoint. The inherent simplicity of bill and keep makes it a sensible choice as a transitional compensation mechanism until a more comprehensive interconnection rate structure can be implemented ... Interim bill and keep arrangements will also avoid transactions costs associated with cash based compensation methods because interconnecting carriers will not incur the expense of measuring, collecting, and auditing traffic. This is advantageous during the initial states of competition, because measurement costs impose a greater relative burden on new entrants, who must spread the capital cost of such system over much smaller volumes of traffic." See also In the Matter of the Application of City Signal, Inc., for an Order Establishing and Approving Interconnection Arrangements with Ameritech Michigan, Case No. U-10647, Opinion and Order dated February 23, 1995, at 19-30; Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service, California R.95-04-043, order mailed December 22, 1995, at 31; and Washington Utilities and Transportation Comm'n v. U S WEST, Fourth Supplemental Order. Docket No. UT-941464, released October 31, 1995, at 29-36.